



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

January 11, 2022

Via Emailed PDF

Carolyn Brown
The Brown Law Firm PLLC
1750 K Street, N.W., 12th Floor
Washington, D.C. 20006

RE: WMATA Western Bus Garage - Use Category

Dear Carolyn Brown,

This response letter is to confirm that I am in agreement with the analysis and the conclusions stated in the attachments, and specifically that:

- This is a summary of our meeting, which included Liz Price and Roz Doggett of WMATA, via a WebEx virtual meeting on November 15, 2021, to continue our discussions on the appropriate zoning use category for WMATA's proposed Western Bus Garage.
- I had previously indicated that a WMATA bus garage does not meet the definition of "mass transit facility" because it was not part of a fixed right-of-way. Instead, I agreed that a bus facility would fall within the "public storage garage" definition, provided the accessory uses of the facility, such as routine maintenance, cleaning and refueling, did not constitute more than 20% of the site or some other metric.
- You noted that you reviewed the bus garage operations with WMATA and have found that the accessory uses comprise approximately 16% of the square footage of the facility.
- Therefore, as discussed further below, a WMATA bus garage meets the definition of "public storage garage" and may be located as a matter-of-right in the MU Use Groups D, E, F and G, with the exception of MU-24 and MU-26 Districts (see U-514.1(k)).

Public Storage Garage and Accessory Uses

- The Zoning Regulations define a "**public storage garage**" as "a building or other structure, or part of a building or structure, in which any repair, greasing, washing, or similar services are incidental to its primary use for the parking of motor vehicles." 11-B DCMR § 100.2.
- An "**accessory use**" is defined as a "use customarily incidental and subordinate to the principal use and located on the same lot with the principal use. Except for Short-Term Rentals and unless otherwise specifically permitted, an accessory use shall be limited to twenty percent (20%) of the gross floor area." *Id.*

- Here, the Western Bus Garage meets the definition of “public storage garage” because the facility would be used primarily for parking. While WMATA would also perform routine maintenance, body repairs, greasing, fueling and washing, and similar services at its bus garages, those uses would be incidental and subordinate to its principal parking use. Based on an internal WMATA site needs analysis, you noted that those secondary uses would comprise less than 20% of the site square footage. The attached chart from that analysis shows that WMATA Western Bus Garage has an anticipated site need for approximately 522,368 square feet of land area. Of that, only 82,732 square feet of space, or approximately 15.8% of the site, would be devoted to routine maintenance, body repair and painting, fueling and washing, and other similar uses, and thus fall below the 20% accessory use threshold.

Zone Districts in Which Public Storage Garages are Permitted as a Matter-of-Right

- During our 2019 meetings on this topic, I determined that a public storage garage is permitted in the MU Group D, notwithstanding the lack of any explicit reference to that use for that group. I noted that there appeared to be an oversight in the 2016 Zoning Regulations in identifying the zone in which a public storage garage is first permitted. In such instances, I have determined that if a use is not expressly prohibited, it is generally permitted.
- I further determined that a public storage garage is first mentioned in MU Group D as an implicit matter-of-right use. Subtitle U § 510.1(k) provides that a gasoline service station is permitted as an accessory use to a public storage garage, which necessarily implies that public storage garage is permitted as a principal, matter-of-right use in Group D.
- I therefore concluded that a public storage garage would be permitted in the MU Groups D-G, but not in MU Use Groups A-C.
- Pursuant to Subtitle U § 500.2, the corresponding zone districts are as follows:

Permitted in:

MU Group D:	MU-3
MU Group E:	MU-4, MU-5, MU-6, MU-17, MU-18, MU-19, MU-24, MU-25, MU-26, MU-27, CG-2
MU Group F:	MU-7, MU-8, MU-9, MU-20, MU-21, MU-28, CG-3, MU-30
MU Group G:	MU-10, MU-22, MU-29, and CG-4

Prohibited in:

MU-24 and MU-26 Districts (see U-514.1(k))

Conclusion

- Based on the foregoing, I confirm that:
 - (i) a WMATA bus garage meets the definition of a public storage garage because its accessory uses would constitute less than 20% of its anticipated site needs; and,
 - (ii) that a public storage garage is permitted in MU Groups D-G.

Please let me know if you have any further questions.

Sincerely, Matthew Le Grant
Matthew Le Grant
Zoning Administrator

DISCLAIMER: This letter is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a "final writing", as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator's review. Therefore this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.

Attachments: Email of 12-29-21 from Brown to Le Grant
WMATA Space Needs Program – 2019

File: Det Let re WMATA Bus Garage to Brown 1-11-22